

AO 120 (Rev. 08/10)

TO: Mail Stop 8 Director of the U.S. Patent and Trademark Office P.O. Box 1450 Alexandria, VA 22313-1450	REPORT ON THE FILING OR DETERMINATION OF AN ACTION REGARDING A PATENT OR TRADEMARK
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In Compliance with 35 U.S.C. § 290 and/or 15 U.S.C. § 1116 you are hereby advised that a court action has been filed in the U.S. District Court Southern District of Florida on the following

☒ Trademarks or ☒ Patents (☐ the patent action involves 35 U.S.C. § 292.)


DOCKET NO. 10-14302-QD-KMM	DATE FILED 1/27/2011	U.S. DISTRICT COURT Southern District of Florida
PLAINTIFF Enpath, Inc		DEFENDANT Adventure Air, Inc.
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK
6,328,260 B1	12/11/2011	Wing Spar Modification Kit
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In the above—entitled case, the following patent(s)/ trademark(s) have been included:

DATE INCLUDED	INCLUDED BY	<input type="checkbox"/> Amendment <input type="checkbox"/> Answer <input type="checkbox"/> Cross Bill <input type="checkbox"/> Other Pleading
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK
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In the above—entitled case, the following decision has been rendered or judgement issued:

DECISION/JUDGEMENT Dismissed without Prejudice. Case is Closed. 1/27/2011 DE # 7
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CLERK Steven M. Larimore	(BY) DEPUTY CLERK 	DATE 2/1/2011
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Copy 1—Upon initiation of action, mail this copy to Director Copy 3—Upon termination of action, mail this copy to Director
Copy 2—Upon filing document adding patent(s), mail this copy to Director Copy 4—Case file copy

- (3) Deeming this to be an "exceptional" case within the meaning of 35 U.S.C. § 285, entitling Plaintiff Enpat to an award of its reasonable attorney fees, expenses and costs in this action;
- (4) Awarding compensatory damages based on reasonable royalties, lost profits, reduced profits, prejudgment interest, and/or for any other available damages based on any form of recoverable economic injury sustained by Plaintiff Enpat as a result of Defendant Adventure Air, Inc.'s infringement pursuant to 35 U.S.C. §284;
- (5) Awarding permanent injunctive relief enjoining the use of any instrumentality that infringes any of the claims of the '260 patent pursuant to 35 U.S.C. §283;
- (6) Awarding Plaintiff Enpat treble damages pursuant to 35 U.S.C. §284;
- (7) Awarding Plaintiff Enpat costs and attorneys' fees pursuant to 35 U.S.C. §285; and
- (8) Awarding Plaintiff Enpat such other and further relief as this Court deems just and proper.

Respectfully submitted.

DATED this 8th day of November, 2010.

BY: s/ Kelly G. Swartz
Kelly G. Swartz, **Trial Counsel**
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Robert A. Lynch
Florida Bar No. 0026459
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kswartz@hctlaw.com
Attorneys for Plaintiff Enpat, Inc.

DEMAND FOR JURY TRIAL

Plaintiff, Enpat, Inc. hereby demands a trial by jury on all issues so triable.

DATED this 8th day of November, 2010.

BY: s/ Kelly G. Swartz
Kelly G. Swartz, **Trial Counsel**
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Robert A. Lynch
Florida Bar No. 0026459
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Attorneys for Plaintiff Enpat, Inc.

FD-104 (Rev. 10/95)

CIVIL COVER SHEET

The FD-104 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of installing the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

NOTICE: Attorneys MUST Indicate All Re-Filed Cases Below.

I. (a) PLAINTIFFS

Epat, Inc., a Florida Corporation

(b) County of Residence of First Listed Plaintiff Brevard
(EXCEPT IN U.S. PLAINTIFF CASES ONLY)

(c) Attorney's (Firm Name, Address and Telephone Number)

Kelly G. Swartz, Hayworth, Chaney & Thomas, P.A.; 202 N Harbor
City Blvd., Ste 300; Melbourne, FL 32935, (321) 253-3300

DEFENDANTS

Adventure Air, Inc.

County of Residence of First Listed Defendant
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT
LAND INVOLVED

Attorneys of Record:

(d) Check County Where Action Arises: ☐ MIAMI-DADE ☐ MONROE ☐ BROWARD ☐ PALM BEACH ☐ MARTIN ☐ ST. LUCIE ☐ INDIAN RIVER ☐ OKEECHOBEE
WOODLANDS

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☒ 2 Federal Question (U.S. Government Not Party)
☐ 3 U.S. Government Defendant ☐ 4 Diversity (Declare Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State ☐ 1 ☐ 2 Incorporated or Principal Place of Business in This State ☐ 3 ☐ 4
Citizen of Another State ☐ 1 ☐ 2 Incorporated and Principal Place of Business in Another State ☐ 3 ☐ 4
Citizen or Subject of a Foreign Nation ☐ 5 ☐ 6 Foreign Nation ☐ 6 ☐ 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

ENPAT, INC.,
a Florida Corporation,
Plaintiff,

v.

Adventure Air, Inc.,
a Florida Corporation,
Defendant.

Case No.:

**PLAINTIFF ENPAT, INC.'s
COMPLAINT AND
DEMAND FOR JURY TRIAL
INJUNCTIVE RELIEF
SOUGHT**

Plaintiff, Enpat, Inc. brings this action for injunctive relief and for the recovery of damages and attorney's fees and costs arising from infringement of United States Patent No. 6,328,260 ("the '260 patent") against Defendant Adventure Air, Inc., and alleges as grounds therefore the following:

SUBJECT MATTER JURISDICTION

I. The claims alleged below are brought under the Patent Laws of the United States, 35 U.S.C. §1 *et seq.* This Court has

original and exclusive jurisdiction over these claims pursuant to 28 U.S.C. §1338(a).

PARTIES

2. Plaintiff Enpat, Inc. ("Enpat") is a corporation duly organized and existing under the laws of the State of Florida, with its corporate headquarters and principal place of business at 610 Baytree Drive, Melbourne, FL 32940.

3. Defendant Adventure Air, Inc. is, on information and belief, a Florida corporation with a principle place of business at 1614 Assembly Point Drive, Sebring, Florida.

PERSONAL JURISDICTION AND VENUE

4. The Court has personal jurisdiction over Defendant Adventure Air, Inc. and subject matter jurisdiction pursuant to 28 U.S.C. § 1338(a).

5. Venue is proper in the Southern District of Florida pursuant to 28 U.S.C. §§1391(b).

GENERAL ALLEGATIONS

6. Lake Amphibious Seaplanes ("Lake Aircraft") are single engine boat-hulled pusher-propeller amphibian aircraft.

7. On or around October 6, 1999, the Federal Aviation Administration ("FAA") published a notice of proposed rulemaking ("NPRM") regarding Lake Aircraft. *See* 64 FR 54234.

8. The NPRM would have required every owner of a Lake Aircraft to remove the wings from the aircraft, inspect for cracks in the wing spar caps and doublers, and repair any cracks as necessary.

9. The anticipated costs for compliance with the NPRM would have been approximately \$40,000.00 or more per airplane.

10. In response to the NPRM, non-party Aerofab, Inc. ("Aerofab") developed a wing spar modification kit that could be installed on Lake Aircraft to address the problem identified in the NPRM while avoiding the cost, expense, and risk associated with removing the aircraft wings.

11. Aerofab sought and obtained FAA approval of the wing spar modification kit.

12. Aerofab developed and obtained approval of the wing spar modification kit at its own significant expense.

13. On or around June 20, 2000, the FAA issued an Airworthiness Directive (AD) requiring owners of all affected aircraft to install the wing spar modification kit developed by Aerofab.

14. The inventors of the wing spar modification kit filed for patent protection under the Patent Laws of the United States on October 25, 2000.

15. Upon information and belief, non-party JCM Aerodesign Limited ("JCM") manufactured or distributed a wing spar modification kit ("Knock-Off Kit") that was a copy of the Aerofab wing spar modification kit.

16. JCM copied Aerofab's approved wing spar modification kit.

17. Upon information and belief, JCM obtained FAA approval to use the Knock-Off Kit as an alternative method of compliance with the AD.

18. On December 11, 2001, the '260 patent, entitled "Wing Spar Modification Kit" was granted to inventors Jack M. Tarbox and Philip J. Baker, the inventors of the Aerofab wing spar modification kit. A copy of the '260 patent is attached as Exhibit "A", and incorporated herein by reference.

19. In general, the claims of the '260 patent relate to a kit to be installed on a Lake Aircraft to reduce or prevent cracking in the wing spars.

20. Subsequent to issuance of the '260 patent, all right, title and interest in and to the '260 patent were assigned to Revo, Inc., a New Hampshire corporation.

21. Revo, Inc. then assigned all right, title and interest in and to the '260 patent to Plaintiff Enpat, which is now the owner of all right, title and interest in and to the '260 patent including the right to recover for past infringement.

22. Plaintiff Enpat is an active licensor and enforcer of the '260 patent, having granted licenses thereto.

23. On or around, April 28, 2001 a Knock-Off Kit was installed on a LA4/200 aircraft which is now owned by Defendant Adventure Air, Inc.. See Exhibit B.

24. Upon information and belief, Defendant Adventure Air, Inc. uses, in the Southern District of Florida, one or more airplanes that have Knock-Off Kits installed.

25. The Knock-Off Kit infringes one or more claims of the '260 patent.

26. The '260 patent has completed a reexamination proceeding with each and every claim remaining valid, enforceable, and unchanged.

27. Defendant Adventure Air, Inc.'s use of the aircraft is a direct violation of 35 U.S.C. § 271 because, upon information and belief, it contains the Knock-Off Kit.

28. Defendant Adventure Air, Inc. is acting without authorization or license from Plaintiff Enpat or any prior owner of the patent.

29. Defendant Adventure Air, Inc.'s infringing activities have caused Plaintiff Enpat a compensable injury and are likely to

cause irreparable injury to Plaintiff Enpat unless Defendant Adventure Air, Inc.'s infringement is enjoined.

30. Defendant Adventure Air, Inc. is willfully infringing the '260 patent.

31. Pursuant to 35 U.S.C. § 282, the '260 patent enjoys a presumption of validity.

COUNT ONE

PATENT INFRINGEMENT OF U.S. PATENT NO. 6,328,260

UNDER 35 U.S.C. §271(a)

32. Paragraphs one (1) through thirty-one (31) are re-alleged and incorporated as if fully set forth herein.

33. Defendant Adventure Air, Inc. has used, and will continue to use, in this judicial district and elsewhere throughout the United States, the Knock-Off Kit that infringes one or more claims of the '260 patent.

34. Defendant Adventure Air, Inc.'s Knock-Off Kit infringes one or more of the claims of the '260 patent.

35. By using the Knock-Off Kit, Defendant Adventure Air, Inc. has directly infringed, and will continue to directly infringe, one or more claims of the '260 patent under 35 U.S.C. §271(a).

36. Defendant Adventure Air, Inc.'s infringement of the '260 patent has been and continues to be willful and deliberate.

37. As a direct and proximate consequence of the acts and practices of Defendant Adventure Air, Inc., Plaintiff Enpat has been, is being, and will continue to be injured in its business and property rights, and has suffered, is suffering, and will continue to suffer injury and damages for which it is entitled to relief under 35 U.S.C. §284.

WHEREFORE, Plaintiff Enpat prays for the entry of a judgment from this Court:

- (1) Declaring, pursuant to 35 U.S.C. § 271, that Defendant Adventure Air, Inc. has directly infringed one or more of the claims of the '260 patent;
- (2) Declaring that Defendant Adventure Air, Inc. has willfully infringed one or more claims of the '260 patent;